



Board Direction

Ref: 11.246838

The submissions on this file and the Inspector's report were further considered at a meeting of all available Board Members held on 8th, November 2016.

The Board treated this case under section 48 of the Planning and Development Act, 2000, as amended. The Board also decided (by a majority of 5 : 3) that the planning authority be directed, as follows:

Remove condition number 6 and Reason.

REASONS AND CONSIDERATIONS

Having regard to the fact that in the case of the current appeal a financial contribution had already been paid and the structure has not been materially altered, the Board concluded that the terms of the scheme had not been properly applied by the planning authority in respect on Condition No. 6 as attached to the planning authority notification of decision to grant planning permission. In these circumstances, the Board considered that the attachment of the condition would amount to double charging for the same infrastructure and would be unwarranted.

Having considered the provisions of the Laois County Council Development Contribution Scheme 2013 – 2017, the Board considered that the 'Exclusion' in the case of applications for retention planning permission stated in the final bullet point of Section 6.5 of the scheme in respect of 'Exemptions and Reductions' that might otherwise apply under the terms of the scheme is a general exclusion that does not override nor negate the specific provision contained within Section 6.5 of the scheme

as it applies to Telecommunications/Broadband infrastructure (masts and antennae). The specific provision in respect of Telecommunications/Broadband infrastructure (masts and antennae) provides that where a Development Contribution has already been paid contributions will not be payable on any subsequent structure unless the existing structure is to be materially altered.

In not accepting the Planning Inspector's recommendation to attach condition number 6 the Board considered that the specific provision contained within the scheme in respect of telecommunications masts was not negated by reference to the more general provision contained within the scheme in respect of retention planning permissions.

Board Member: _____ Date: 11th, November 2016
Paddy Keogh